

### REMARKS

Claims 1, 2, 4-12, and 14-21 are pending in the present application. By this Response, claims 3 and 13 are canceled and claims 1, 9, 11, and 19-21 are amended. Claims 1, 11, and 20 are amended to incorporate subject matter similar to canceled claims 3 and 13. Claims 9, 19, and 21 are amended to incorporate subject matter similar to claims 2 and 12. Claims 1 and 11 are further amended to provide proper antecedent basis for claims 7 and 17. Reconsideration of the claims in view of the above amendments and the following remarks is respectfully requested.

#### **I. Improper Finality**

Applicant respectfully submits that the finality of the Office Action dated February 10, 2005 is improper. Applicant respectfully submits that the 35 U.S.C. § 112, second paragraph rejection of claims 3, 7, 13, and 17 was not necessitated by any amendments previously made by Applicant. Examiner Ali has acknowledged the improper finality in the Interview Summary mailed March 14, 2005. Therefore, this Response is treated as a non-final Office Action.

#### **II. 35 U.S.C. § 112, Second Paragraph, Claims 3, 7, 13, and 17**

The Final Office Action has rejected claims 3, 7, 13, and 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regard as the invention. By this Response, claims 3 and 13 have been canceled. Claims 1 and 11 are amended to provide proper antecedent basis for the term "server task" as recited in claims 7 and 17. Therefore, Applicant respectfully requests the withdrawal of the rejection of claims 7 and 17 under 35 U.S.C. § 112, second paragraph.

### III. 35 U.S.C. § 102, Anticipation, Claims 1, 9-11, and 19-21

The Final Office Action has rejected claims 1, 9-11, and 19-21 under 35 U.S.C. § 102(e) as being anticipated by Arnold et al. (U.S. Patent No. 6,694,507 B2). This rejection is respectfully traversed.

By this response, claims 1, 11, and 20 are amended to incorporate subject matter similar to canceled claims 3 and 13. Furthermore, the Office Action rejected the subject matter of canceled claims 3 and 13 under 35 U.S.C. § 103(a), as being allegedly as being unpatentable over Arnold et al. (U.S. Patent No. 6,694,507 B2) in view of "JNI FAQ for JDK 1.1". Also, by this response, claims 9, 19, and 21 are amended to incorporate subject matter similar to claims 2 and 12. Furthermore, the Office Action rejected the subject matter of canceled claims 2 and 12 under 35 U.S.C. § 103(a), as being allegedly as being unpatentable over Arnold et al. (U.S. Patent No. 6,694,507 B2) in view of Xia (U.S. Patent No. 6,542,900 B1).

The Arnold patent and the instant application were, at the time of the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The instant application was filed on or after November 29, 1999. The Arnold patent qualifies as prior art only under 35 U.S.C. § 102(e). And, the instant application and the Arnold patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the Arnold patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should be withdrawn.

In view of the above, Applicant respectfully submits that Arnold and JNI, taken alone or in combination, fail to teach or fairly suggest the features of independent claims 1, 11, and 20. Also in view of the above, Applicant respectfully submits that Arnold and

Xia, taken alone or in combination, fail to teach or fairly suggest the features of independent claims 9, 19, and 21. At least by virtue of their dependency on independent claim 9, the feature of dependent claim 10 is not taught by Arnold and Xia, whether taken alone or in combination. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1, 9-11, and 19-21 under 35 U.S.C. § 103(a).

**IV. 35 U.S.C. § 103, Obviousness, Claims 2, 8, 12, and 18**

The Final Office Action has rejected claims 2, 8, 12, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Arnold et al. (U.S. Patent No. 6,694,507 B2) in view of Xia (U.S. Patent No. 6,542,900 B1). This rejection is respectfully traversed.

Claims 2, 8, 12, and 18 are dependent on independent claims 1 and 11 and, thus, these claims distinguish over Arnold for at least the reasons noted above with regards to claims 1 and 11. Moreover, Xia does not provide for the deficiencies of Arnold and, thus, any alleged combination of Arnold and Xia would not be sufficient to reject independent claims 1 and 11 or claims 2, 8, 12, and 18 by virtue of their dependency.

Moreover, the Office Action may not use the claimed invention as an "instruction manual" or "template" to piece together the teachings of the prior art so that the invention is rendered obvious. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Such reliance is an impermissible use of hindsight with the benefit of Applicant's disclosure. Id. Therefore, absent some teaching, suggestion, or incentive in the prior art, Arnold and Xia cannot be properly combined to form the claimed invention. As a result, absent any teaching, suggestion, or incentive from the prior art to make the proposed combination, the presently claimed invention can be reached only through an impermissible use of hindsight with the benefit of Applicant's disclosure a model for the needed changes.

In view of the above, Arnold and Xia, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claims 1 and 11, from which claims 2, 8, 12, and 18 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 2, 8, 12, and 18 under 35 U.S.C. § 103.

**V. 35 U.S.C. § 103, Obviousness, Claims 3-6 and 13-16**

The Final Office Action has rejected claims 3-6 and 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Arnold et al. (U.S. Patent No. 6,694,507 B2) in view of "JNI FAQ for JDK 1.1". This rejection is respectfully traversed.

By this Response, claims 3 and 13 have been canceled. Claims 4-6 and 14-16 are dependent on independent claims 1 and 11 and, thus, these claims distinguish over Arnold for at least the reasons noted above with regards to claims 1 and 11. Moreover, JNI does not provide for the deficiencies of Arnold and, thus, any alleged combination of Arnold and JNI would not be sufficient to reject independent claims 1 and 11 or claims 4-6 and 14-16 by virtue of their dependency.

Moreover, the Office Action may not use the claimed invention as an "instruction manual" or "template" to piece together the teachings of the prior art so that the invention is rendered obvious. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Such reliance is an impermissible use of hindsight with the benefit of Applicant's disclosure. *Id.* Therefore, absent some teaching, suggestion, or incentive in the prior art, Arnold and JNI cannot be properly combined to form the claimed invention. As a result, absent any teaching, suggestion, or incentive from the prior art to make the proposed combination, the presently claimed invention can be reached only through an impermissible use of hindsight with the benefit of Applicant's disclosure a model for the needed changes.

In view of the above, Arnold and JNI, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claims 1 and 11, from which claims 4-6 and 14-16 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 4-6 and 14-16 under 35 U.S.C. § 103.

**VI. 35 U.S.C. § 103, Obviousness, Claims 7 and 17**

The Final Office Action has rejected claims 7 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Arnold et al. (U.S. Patent No. 6,694,507 B2) in view of "JNI

FAQ for JDK 1.1" in view of Xia (U.S. Patent No. 6,542,900 B1). This rejection is respectfully traversed.

Claims 7 and 17 are dependent on independent claims 1 and 11 and, thus, these claims distinguish over Arnold for at least the reasons noted above with regards to claims 1 and 11. Moreover, JNI and Xia does not provide for the deficiencies of Arnold and, thus, any alleged combination of Arnold, JNI and Xia would not be sufficient to reject independent claims 1 and 11 or claims 7 and 17 by virtue of their dependency.

Moreover, the Office Action may not use the claimed invention as an "instruction manual" or "template" to piece together the teachings of the prior art so that the invention is rendered obvious. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Such reliance is an impermissible use of hindsight with the benefit of Applicant's disclosure. Id. Therefore, absent some teaching, suggestion, or incentive in the prior art, Arnold, JNI and Xia cannot be properly combined to form the claimed invention. As a result, absent any teaching, suggestion, or incentive from the prior art to make the proposed combination, the presently claimed invention can be reached only through an impermissible use of hindsight with the benefit of Applicant's disclosure a model for the needed changes.

In view of the above, Arnold, JNI and Xia, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claims 1 and 11, from which claims 7 and 17 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 7 and 17 under 35 U.S.C. § 103.

**VII. Conclusion**

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: March 21, 2005



Francis Lammes  
Reg. No. 55,353  
Yee & Associates, P.C.  
P.O. Box 802333  
Dallas, TX 75380  
(972) 385-8777  
Agent for Applicant